

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

In re LIPITOR ANTITRUST LITIGATION

MDL No. 2332
No. 12-2389 (PGS/DEA)

MEMORANDUM AND ORDER

This matter is before the Court on a motion to appoint Mr. James R. Dugan, II of the Dugan Law Firm as co-lead counsel to the end-payor class (Docket Entry No. 142). For the reasons set forth below, the motion is denied.

On June 7, 2012, the Court requested that each class confer and mutually agree upon a management team for the class. At the time of the hearing with counsel, Mr. Dugan objected to the management team because of an alleged conflict of interest between his client and with another co-lead counsel. In addition, he argues that he deserves to be co-lead counsel because his client has sustained significant damages greater than many other defendants. After the hearing, the end-payor class conferred about Mr. Dugan's concerns and involvement. The class determined that Mr. Dugan would have substantial participation by being part of the executive committee, but determined that his request to be co-lead counsel was unnecessary. At the present time, Mr. Dugan disagrees with the determination.

Despite Mr. Dugan's concerns, the end-payor management structure appears to be sound. Co-lead counsel have submitted very professional and timely responses to a number of motions. Moreover, Mr. Dugan has not submitted any substantial reasons to upset the management structure, and in his motion, Mr. Dugan has not argued that any conflict presently exists.

Generally, Mr. Dugan has recourse in the future because if an issue arises, the Court reviews the management structure annually (September 1 of each year) upon motion of a class member. Hence, Mr. Dugan and other class members may, upon motion, assert that the management structure should be changed based upon an affidavit which attests mismanagement or other good cause.

For the reasons set forth above;

IT IS on this 18th day of October, 2012

ORDERED that the motion to appoint Mr. Dugan as co-lead counsel to the end-payor class is denied.

s/Peter G. Sheridan
PETER G. SHERIDAN, U.S.D.J.